

1 EDMUND G. BROWN JR.  
Attorney General of the State of California  
2 DANE R. GILLETTE  
Chief Assistant Attorney General  
3 GERALD A. ENGLER  
Senior Assistant Attorney General  
4 PEGGY S. RUFFRA  
Supervising Deputy Attorney General  
5 ARTHUR P. BEEVER  
Deputy Attorney General  
6 State Bar No. 242040  
455 Golden Gate Avenue, Suite 11000  
7 San Francisco, CA 94102-7004  
Telephone: (415) 703-5865  
8 Fax: (415) 703-1234  
Email: arthur.beever@doj.ca.gov  
9 Attorneys for Respondent

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 **TIMOTHY WAYNE SMITH,**

14 Petitioner,

15 v.

16 **JAMES YATES, Warden,**

17 Respondent.  
18

C 08-0007 RMW (PR)

**DECLARATION OF COUNSEL IN  
SUPPORT OF APPLICATION FOR  
EXTENSION OF TIME TO FILE  
RESPONSE**

19 I, Arthur P. Beever, declare under penalty of perjury as follows:

20 1. I am a Deputy Attorney General for the State of California and am assigned to  
21 represent respondent in this habeas corpus case.

22 2. On April 28, 2008, this Court issued an Order to Show Cause why the petition for a  
23 writ of habeas corpus should not be granted. The California Attorney General's Office in San  
24 Francisco docketed the order on May 20, 2008.

25 3. The Deputy Attorney General who was assigned to represent respondent in the state  
26 courts, David Baskind, is currently offline working on a capital case. I am unfamiliar with the case.  
27 I have ordered the state court record from our archives, but have not yet have received it. However,  
28 I am presently unable to begin working on this case because I am preparing the response in *Lowe*

1 *v. Walker* (C 08-005). In the past 60 days, I filed supplemental briefing requested by the California  
2 Court of Appeal in *People v. Ray* (A115103), appeared for oral argument in *People v. Leal*  
3 (H030415) and *People v. Ray* (A115103), and filed the Respondent's Brief on the Merits in the  
4 California Supreme Court case of *People v. Stevens* (S158852). I have five other previously  
5 assigned cases. Once I have completed working on those cases, I will devote substantially all of my  
6 time to working on this case.

7 4. I have not attempted to contact petitioner because he is an incarcerated state prisoner  
8 who is representing himself in this case.

9 5. Accordingly, I respectfully request that this Court grant an extension of time to and  
10 including August 27, 2008, in which to file a response to the order to show cause.

11  
12 Dated: June 30, 2008

13 Respectfully submitted,

14 EDMUND G. BROWN JR.  
Attorney General of the State of California

15 DANE R. GILLETTE  
Chief Assistant Attorney General

16 GERALD A. ENGLER  
Senior Assistant Attorney General

17 PEGGY S. RUFFRA  
Supervising Deputy Attorney General

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19  
20 /s/ Arthur P. Beever  
ARTHUR P. BEEVER  
21 Deputy Attorney General  
22 Attorneys for Respondent  
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